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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED COOK INLET DRIFT
ASSOCIATION and COOK INLET
FISHERMEN'S FUND,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES
SERVICE, et al.,

Defendants.

Civil Action No.: 3:21-cv-00255-JMK

**PLAINTIFFS UNITED COOK INLET
DRIFT ASSOCIATION AND COOK
INLET FISHERMEN'S FUND'S
RESPONSE TO FEDERAL
DEFENDANTS' SECOND STATUS
REPORT**

RESPONSE

Plaintiffs United Cook Inlet Drift Association and Cook Inlet Fishermen's Fund ("Plaintiffs") hereby provide this response to the Status Report filed by Defendant National Marine Fisheries Service ("NMFS"), dated February 27, 2023.

Nothing productive has occurred since the last status report on January 12, 2023. The Council had a meeting in February of 2023, but the Cook Inlet Salmon FMP was not even on the agenda. NMFS continues to represent that the Council will take final action on the Salmon FMP in April, but to-date the Council has refused engagement with, and ignored all comments and testimony submitted by, the party to be regulated by this action. The Council has not identified a preferred alternative, and apparently will not do so until it actually takes final action at the April meeting, resulting in another last-minute surprise.

The Council is still expressly considering an alternative that delegates management to the State of Alaska and apparently planning to advance that alternative to final consideration in April. This is the same alternative that was a sham in the Amendment 14 process, with the State announcing during deliberations on final action that it would not accept a delegated program. The Council is setting up the same rug-pull again. Plaintiffs sent a letter to the State's representatives on the Council (Attachment A) asking them whether they were going to reconsider their position on delegation and asking them to explain their process and timing for making a decision on delegation. The State refused to respond under the guise that questions "involve[] ongoing litigation"

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(Attachment B).

Regarding management for the 2023 season, NMFS appears to intend to do nothing to guide the management of the fishery this summer and remains content to allow the State to manage the fishery with no requirement to comply with any aspect of federal law or the Magnuson-Stevens Act. Meanwhile, the State announced last week by “emergency order” that it will be placing unspecified additional restrictions on the commercial drift fleet and commercial set net fisheries this summer to ensure that it meets its optimum escapement goal for King salmon in the Kenai River, a goal which is not biologically based or compliant with the Magnuson-Stevens Act (Attachment C). The result will almost certainly be, once again, the lost harvest of millions of sockeye salmon and severe economic hardship to the commercial salmon fishing industry in Cook Inlet and those who rely on the industry for their livelihoods.

NMFS, the Council, and the State appear to be oblivious to this Court’s summary judgment order, just as they were oblivious to the Ninth Circuit’s order in the last remand. This unfortunate circumstance will only result in continued violations of federal law and more litigation.

DATED this 6th day of March, 2023.

/s/ Jason T. Morgan

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2023, I filed a true and correct copy of the foregoing document with the Clerk of the Court for the United States District Court, District of Alaska by using the CM/ECF system, which will send notice of such filing to counsel of record.

/s/ Jason T. Morgan

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